IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.824 OF 2006

Omprakash Gurnomal Rohra .. Petitioner

Versus

Vashdev Gurnomal Rohra & Anr. .. Respondents

Mr.J.S.Chandnani for petitioner

Mr.A.Y.Sakhare, Senior Advocate i/b. Y.K.S.Legal for respondent Nos. 1 and 2.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 23rd February 2006.

P.C.

. Heard Mr.Chandnani appearing for petitioner, original plaintiff and Mr.Sakhare,

learned Senior Counsel appearing for respondents original defendants. Regular Civil Suit has been filed being R.C.S.No.18 of 2005 by the present petitioner for declaration that defendants have no right, title and interest in the suit property and that original documents viz., settlement deed, dissolution deed, sale deed etc. be handed over to the petitioner plaintiff. In furtherence of the same a perpetual injunction is claimed restraining them from causing obstruction to plaintiff's possession of suit property.

2. Upon an application being made, the trial court granted interim injunction in favour of plaintiff and against respondent original defendant, restraining them or anybody claiming on their behalf from causing obstruction to plaintiff's possession over the suit property.

3. Aggrieved by the order of trial court, an appeal was preferred and the learned appellate

Judge has reversed the judgement and order of the trial court. In other words, appeal was allowed and by the judgement and order dated 7th January 2006, temporary injunction was vacated.

4. After hearing Mr.Chandnani for some time and perusing annexures to the petition, including plaint in regular civil suit, prima facie, when the petitioner plaintiff refers to an award passed by the Arbitrators declaring the right, title and interest of parties in the property, then, the remedy of petitioner plaintiff is to enforce the declaratory award, pronounced on 3rd January 2001. It is the case of petitioner plaintiff that pursuant to this award/ family arrangement, the property was handed over to him and in lieu of the petitioner plaintiff's handing over his residential flat to respondents defendants. It is not disputed before me by learned Counsel for both sides that the Arbitration and Conciliation Act 1996 gives

finality to the award and provides for its enforcement vide section 36. It has to be enforced under the C.P.C. in the same manner, as if it were decee of the Court. In my view, proper course for the petitioner plaintiff would be to applyin terms of these provisions for enforcement of the award and seek appropriate reliefs including directions to respondents defendants to produce and/or hand over original documents. Needless to state that it will be open for him, in the event, respondent defendants fail to abide by the said request/ direction, to seek, assistance of executing court. Leaving all such remedies and contentions in that behalf also open for parties, the present petition is disposed of.

5. It is clarified that observations made in the order under challenge shall not prevent petitioner plaintiff from seeking reliefs in terms of the award and it would be for the

executing court to decide the said application on its own merits and uninfluenced by any observations in the order under challenge.

6. To enable petitioner plaintiff to take out appropriate proceedings, parties are directed to maintain status quo as of today for a period of four weeks. All contentions of both parties are kept open.

(S.C.DHARMADHIKARI, J)